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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,362	10/27/2000	Phillip S. Pound	NORT-0082 (13421RRUS01U)	5842

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EXAMINER	
ENG, GEORGE	

ART UNIT	PAPER NUMBER
2643	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/698,362	POUND, PHILLIP S.	
	Examiner	Art Unit	
	George Eng	2643	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *see attachment*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: *51-53*.

   Claim(s) rejected: *1-18,20-22,24,30-33,35,42-44,46,47,49,50 and 54*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

George Eng
Primary Examiner
Art Unit: 2643

Response to Arguments

1. Applicant's arguments filed 6/21/2004 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Schuster and Tabata are combinable because they are in the same field of endeavor, i.e., providing call-handling service in a communication system. The motivation of combining Schuster with Tabata is to provide an efficiency communication method for transferring image and countenance changes in a real time using simple and low cost devices without significant burdens to the users in term of preparation time and effort (col. 28 lines 15-20). Although applicant's argument pointed out that Schuster would find no need or desirability for the solution proposed by Tabata, i.e., bandwidth concern, the solution proposed by Tabata is not only for transmitting images associated with videophone over a telephone line, but also an efficiency transferring method for communicating image and voice without significant burdens to the users in terms of preparation time and effort (col. 28 lines 15-20). Thus, there is clearly a motivation or suggestion to combine the teachings of Schuster and Tabata to achieve the claimed invention.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, applicant's argument attacks each reference individually, i.e., Schuster has not teaching of communicating information representing movement of a physical attribute of a remote party, where the communication information is different from video data of the at least one physical attribute, and Tabata has not teaching of receiving information associated with at least one physical attribute of a a party during the packet based call session, and displaying an associated image during the packet call session. According to previous final Office action, the rejections are based on combination of reference such that the rejection clearly pointed out Schuster lacking of teaching to animate at least a portion of the image associated with the remote party information based on the received information, the received information representing movement of the at least one physical attribute, and the received information being different from video data of the at least one physical attribute and to display the animated image and Tabata teaches efficiency transferring method for communicating image and voice comprising the steps of receiving calling party information (i.e., a fundamental character data of the calling party) associated with the incoming call, receiving information associated with at least one physical attribute of the party, animating at least a portion of an image associated with the party information based on the received information, and display the animate image (col. 10 line 1 through col. 12 line 20 and col. 22 line 36 through col. 25 line 44), wherein the received information represents movement of the at least one physical attribute, which is in form of countenance code (col. 10 lines 33-61) that is different from

character data, i.e., image data, of the at least one physical attribute. Thus, one of ordinary skill in the art would recognize to apply the teachings of Tabata during the packet based call session as disclosed by Schuster in order to provide the efficiency transferring method for communicating image and voice without significant burdens to the users in terms of preparation time and effort.

In response to applicant's arguments that the combination of Schuster and Tabata fails to disclose the steps of receiving information associated with at least one physical attributes of a remote party during a packet based call session, where the receive information is different from the video data of the at least one physical attribute, Schuster clearly teaches to receive information of a remote party during a packet based call session (col. 7 lines 5-30 and col. 12 line 9 through col. 13 line 9), and Tabata clearly teaches to receive information associated with at least one physical attribute of a party, displaying an associated image, where the received information represents movement of the at least one physical attribute and the received information is different from video data of the at least one physical attribute, i.e., countenance code (col. 10 lines 33-61). Thus, the claimed limitations are clearly taught or suggested by the combination of Schuster and Tabata.